Ordinance No. 3541

(Amending or Repealing Ordinances)

CONO=738 – Solid Waste
Passed – 2/6/2001
Amending Ch. 7.03

AMENDS Ords. 2814,2841,2870,3031,3084,3183,3253,3289

Amended by Ords. 3779;3832;3851
ORDINANCE NO. 3541

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Ch. 7.03 of the Kent City Code, entitled “Solid Waste,” to update said chapter in conjunction and consistent with new contracts for the collection of solid waste, recyclable materials, and yard waste.

WHEREAS, the City Council is currently considering new franchise contracts for the collection, disposal, and processing of solid waste, recyclable materials, and yard waste; and

WHEREAS, the City Council desires to amend chapter 7.03 of the Kent City Code to update its provisions in conjunction and consistent with the franchise contracts; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:
SECTION 1. Chapter 7.03 of the Kent City Code, entitled "Solid Waste," is hereby amended to read as follows:

CHAPTER 7.03. SOLID WASTE
RECYCLABLE MATERIALS AND YARD WASTE

Sec. 7.03.010. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Collection company means the persons, firms or corporations or combination thereof operating under a contract for solid waste, recyclables or yard waste collection with, or under the direction of, the city, including an authorized contractor for the collection of recyclable materials under this chapter.

Commercial means all customers that are not included within the definition of "residential" set forth below, which are within the collection company's service areas. Commercial includes Commercial Multi-family as defined below.

Commercial Multi-family means multi-family residences containing more than four (4) dwelling units.

Detachable container means any garbage container compatible with the collection company's equipment that is not a garbage can, garbage unit or mobile toter.

Director means the director of the department of public works.

Garbage means all accumulations of solid waste.

Garbage can means a watertight, galvanized, sheet metal, raised-bottom container or suitable plastic container not exceeding four (4) cubic feet or thirty-two (32) gallons in capacity, weighing not over twenty-two (22) pounds when empty or sixty-five (65) pounds when full, fitted with two (2) sturdy handles, one (1) on each side and a tight cover equipped with a handle.

Garbage units mean secure and tight bundles, none of which shall exceed three (3) feet in the longest dimension and shall not exceed seventy-five (75) pounds in weight. Garbage units may also mean small discarded boxes, barrels or bags or
securely tight cartons or other receptacles not intended for recycling under this chapter and able to be reasonably handled and loaded by one (1) person onto a collection vehicle.

*Mobile toter cart* means a movable container which holds at least thirty-two (32) gallons of garbage solid waste, with a tight-fitting lid, and a thick skinned one (1) piece balanced weight body which sets on tires, which will be picked up at curbside. The director may approve collection company use of alternative mobile toter carts.

*Person* means every person, firm, partnership, business, association, institution, or corporation in the city accumulating garbage solid waste requiring disposal or generating, accumulating, and collecting recyclable materials. The term shall also mean the occupant and/or the owner of any premises for which service mentioned in this section is rendered.

*Recycle container* means toter carts or other containers approved by the director in which recyclable materials, including yard waste, can be stored and later placed at curbside, alleyside or other approved location. This term also includes but is not limited to designated commercial front load boxes, drop boxes and compactors at locations as may be specified by the director. The director may approve collection company use of alternative recycle containers.

*Recyclable materials* means waste materials generated in the city capable of reuse from a waste stream as designated by the director, including but not limited to sorted or unsorted newsprint, glass, aluminum, ferrous and nonferrous cans, plastic materials, mixed paper, and cardboard accumulated and intended for recycling or reuse and collection by a collection company or authorized contractor. This term excludes all dangerous wastes and hazardous wastes as defined in Chapters 70.10 and 70.105A RCW, and solid wastes intended for disposal in a landfill, incinerator, or solid waste disposal facility under Chapter 173-304 WAC. All recyclable materials intended for collection by a city-authorized collection company or contractor shall remain the responsibility and ownership of participants until such materials as contained in designated recycle containers are placed out for collection for the authorized contractor. Such materials then become the responsibility and property of the
collection company or authorized contractor subject to the right of the participant to claim lost property of value.

*Residential* means customers dwelling in one-unit houses, mobile homes, and multi-family residences containing no more than four (4) dwelling units such as duplexes, tri-plexes, and four-plexes which are within collection company's service areas.

*Solid waste* shall be as defined by RCW 70.95.030 and WAC 173-304-100(73), with the exception of sludge from wastewater treatment plants and septage, from septic tanks, extremely hazardous waste, hazardous waste, dangerous waste, and problem wastes as defined in Chapters 173-303 and 173-204 WAC, and Chapters 70.105 and 70.105A RCW.

*Solid waste utility* shall be the city system of solid waste handling under Chapters 35.21 and 35.67 RCW and this code.

*Yard waste* means plant material including leaves, grass clippings, prunings, branches (cut to less than threefour (34) feet and under four (4) inches in diameter), brush, garden material, weeds, tree limbs (also cut to less than threefour (34) feet and under four (4) inches in diameter) and other biodegradable waste that may be designated by the director. Rocks, dirt and sod, except incidental amounts, are unacceptable. Materials may be bundled with cotton or other similar organic string only. Yard waste does not include demolition debris such as concrete, wallboard, lumber or roofing materials.

**Sec. 7.03.020. Garbage-Solid waste, recyclable materials, and yard waste collection by collection company.**

A. *Solid Waste and recyclable materials-Collection required.* Garbage, Solid waste and recyclable materials collections shall be made by garbage and refuse collection companies as authorized by the city. Except as provided in KCC 7.03.020(B) and (C), all persons and properties within the city shall use the solid waste and recyclable materials system and service of the utility under contract with collection companies and it shall be unlawful for any person, other than those duly authorized by
the city to haul solid waste and recyclable materials through the streets of the city or to

dump solid waste and recyclable materials. Except as provided in KCC 7.03.020(B), all persons and occupied property shall be subject to and responsible for the minimum
level of service and associated charges for service for residential and commercial solid
waste and residential and commercial multi-family recyclable materials, as applicable,
whether or not such persons and property use the service. The director may, upon a
showing that a person or property produces no solid waste and recyclable materials,
waive the minimum level of service requirements of this section.

B. Commercial Permitted haulers. It shall be unlawful for any person, other than
those duly authorized by the city to haul garbage through the streets of the city or to
dump garbage. Those commercial and industrial business establishments having prior
established permits to haul their own garbage and refuse solid waste may continue to
haul such garbage solid waste by annual permit. Renewal permits shall be issued upon
application and payment of the annual permit fee. The annual permit fee shall be as
follows:

1. Permit holders hauling less than one hundred fifty (150) tons of garbage
solid waste per month, one hundred dollars ($100);

2. Permit holders hauling greater than one hundred fifty (150) tons of
garbage solid waste per month, seven thousand five hundred dollars ($7,500).

Any permit holder, as provided for in this subsection, shall haul garbage at least once a
week for public health reasons.

C. Residential haulers Self haul. Nothing in this section shall limit does not apply
to the occasional hauling by residential customers of refuse solid waste and recyclable
materials from their specific property to an approved site if the minimum level of
garbage service for such is paid for by the residential customer. Yard waste collection
by collection companies is voluntary to the customer, therefore, a customer may self
haul yard waste to an approved site and not pay the minimum level of service for such.
Sec. 7.03.030. Regulations regarding garbage and refuse collection companies – Business license required.

A. To provide for the public health, safety and general welfare, collection companies operating within the city shall, at no additional cost to the city or its residents:

1. Comply with all provisions of the city code and amendments thereof, and applicable federal, state and county laws and regulations pertaining to the collection, handling, transportation and disposal of garbage solid waste, recyclable materials and yard waste. The city shall be entitled, during regular business hours, to inspect the books and records of collection companies operating within the city.

2. Pick up Christmas trees each January.

3. Provide for a semiannual residential cleanup in the spring and fall of each year to allow for disposal of accumulated garbage solid waste. The director of public works shall promulgate administrative rules, following consultation with collection companies, for the implementation of this subsection.

4. Provide service to public buildings and facilities, as designated by the director of public works. Upon consultation with collection companies, the director of public works may add or delete public facilities from such designation in the interests of public health and safety.

B. Collection companies operating pursuant to and in compliance with this chapter shall be issued, upon application, of a business license pursuant to Ch. 5.01 KCC, without the payment of license fees, permit fees as provided in KCC 7.03.020(B), or other fees related to solid waste handling established by the city. This subsection (B) shall not be construed as a waiver of the utility tax imposed by Ch. 3.18 KCC.

Sec. 7.03.040. Recyclable materials – Collection.

A. Collection companies as part of their collection service, shall and authorized contractors operating in compliance with this chapter are permitted to enter into an agreement with the city and to enter private property to collect recyclable materials
from customers in the city as required and pursuant to the provisions of this chapter. Participants under a program administered by the city or as may be further prescribed in regulations promulgated by the director. Subject to terms and conditions of any collection such contract and regulations, such companies are solely responsible for all costs of removal, marketing, and disposal of recyclable materials placed out for collection by customer program participants. The requirements of this section do not prohibit the customary collection and sale of recyclable and reusable materials by persons or private recyclers or affect the right of waste generators to continue to accumulate, buy, sell or give recyclable materials to persons other than the collection companies.

B. The director is authorized to prepare any implementing regulations needed for the development and implementation of a voluntary waste reduction and recycling collection program for participation by residential and commercial generators of waste materials capable of being recycled and reused. Such program shall not prohibit the customary collection and sale of recyclable and reusable materials by persons or private recyclers or affect the right of waste generators to continue to accumulate, buy, sell or give recyclable materials to persons other than the collection company or authorized contractor. The director shall provide for public service announcements, cooperation with the media, coordination with collection companies and authorized contractors, and information in city utility billings notifying the public of recycling program elements and collection times.

C.B. Designated recycle containers shall be placed at curbside, alley side, or other locations as determined by the director or collection company with the concurrence of the director. Back yard collection of recyclables shall not be required of the collection company or contractor except under special circumstances determined by the director, including disabled or elderly participants.
Sec. 7.03.045. Residential recyclable yard waste materials—Collection—Prohibition on commingling yard waste with other solid waste or recyclables.

A. Collection companies, as part of their collection services, shall and authorized contractors operating in compliance with this chapter are permitted to enter into an agreement with the city and to enter private property to collect residential recyclable yard waste materials from participating residences as required and pursuant to the provisions of this chapter when requested by the customer—under a program administered by the city or as may be further prescribed in regulations promulgated by the director. Subject to terms and conditions of any such contract and regulations, such companies are solely responsible for all costs of removal, marketing, and disposal of residential recyclable yard waste materials placed out for collection by program participants. The requirements of this section do not prohibit the customary collection and sale of recyclable and reusable residential yard waste materials by individual residential yard waste recyclers.

B. The director is authorized to prepare any implementing regulations needed for the development and implementation of a voluntary residential yard waste reduction and recycling collection program for participation by residential generators of yard waste materials capable of being recycled and reused. Such program shall not prohibit the customary collection and sale of recyclable and reusable residential yard waste materials by individual residential yard waste recyclers. The director shall provide for public service announcements, cooperation with the media, coordination with collection companies and authorized contractors, and information in city utility billings notifying the public of the residential yard waste recycling program elements and collection times.

C. Designated residential yard waste containers shall be placed at curbside, alleyside, or other locations as determined by the director or collection company with the concurrence of the director. Back yard collection of residential yard waste shall not be required of the collection company or contract except under special circumstances determined by the director, for example, for disabled or elderly participants.
D. All persons and residences within the territorial limits of the city are prohibited from disposing any yard waste in any garbage, solid waste, or recyclable container other than a designated yard waste container.

Sec. 7.03.050. Solid waste handling service.
A. All persons accumulating garbage solid waste in the city shall place and accumulate garbage solid waste in garbage cans or garbage units, mobile carts totes, or detachable containers as required by this chapter. Except as provided in KCC 7.03.020(B) and (C), all persons and properties within the city shall use the solid waste, recyclable material and yard waste system and service of the solid waste utility under contract with collection companies. All persons and occupied property shall be subject to and responsible for the minimum level of service and associated charges, whether or not such persons and property use the service. The director may, upon a showing that a person or property produces no solid waste, determine not to enforce the provisions of this section.

B. It shall be unlawful to deposit, throw, or place any garbage solid waste in any land, alley, street or other public place, or to deposit, throw or place any garbage solid waste on any private property regardless of ownership, unless the garbage solid waste is placed in garbage cans, containers, or carts totes, the covers of which shall not be removed except when necessary for the depositing or removing of garbage solid waste. Boxes, small barrels, cartons, scraps of wooden crates and boxes, broken up household furniture and equipment, paper, hollowware and rubbish in general, may be broken up or cut up and placed in garbage units, consistent with this chapter or as approved by the director.

C. Any garbage can when filled shall not weigh more than seventy-five (75) pounds and shall be packed so that the contents thereof will dump out readily when the can is inverted. All garbage cans and garbage units shall be placed in convenient, accessible locations upon the ground level or ground floor and as near as practicable to the approximate rear of the building or near the alley, street or road at which collection
trucks are to be loaded; all walks, paths and driveways to the place of loading shall have an overhead clearance of not less than eight (8) feet.

D. Any mobile cart when filled shall not weigh more than one hundred eighty (180) pounds, or as otherwise regulated by the director, and shall be so packed that the contents thereof will dump out readily. All mobile carts shall be placed at curbside or alley before 7:00 a.m. and removed from the curb or alley as soon as possible after collection, but no later than 7:00 p.m.

E. Any person accumulating garbage solid waste in the downtown or suburban business areas whose location requires the placing of cans, containers, or units on a sidewalk or alley for collection shall not place the same on a sidewalk or alley until the close of each business day, and shall remove cans from sidewalk or alley immediately after the opening for business each morning.

F. Dangerous and other waste:

1. No hot ashes or other hot material, dirt, sand, rocks, gasoline, solvents, oil, paint or dangerous or hazardous wastes shall be placed in any garbage can, garbage unit, detachable container or mobile toter for collection or removal. All kitchen, table and cooking waste before being deposited in garbage cans, garbage units, detachable containers, or mobile toterscarts shall be drained and wrapped in paper or other material in such a manner as to prevent as nearly as possible moisture from such garbage solid waste from coming in contact with sides or bottoms of the containers.

2. As used in this section, “dangerous or hazardous wastes” means any solid waste designated as dangerous or hazardous waste by the State Department of Ecology, and such wastes shall be disposed of consistent with Department of Ecology rules and regulations.

G. When use of garbage cans is allowed or required, sufficient garbage cans must be provided for the collection of all garbage cans as defined in this chapter. Worn out and improper cans shall be discarded.

H. Residential units shall use mobile cartstoters unless otherwise authorized by the collection company or by the director. Certain mobile cartstoters shall be provided by the collection company for the health, safety, convenience, and general welfare of the
residences and their occupants. All mobile cartsters provided by the collection company shall remain the property of the collection company. The containers shall not be damaged, destroyed or removed from the premises by any person. Markings and identification devices on the containers, except as placed or specifically permitted by the collection company, are expressly prohibited and shall be regarded as damage to the containers.

I. It shall be unlawful, except as authorized by the owner, collection company or the city, to deposit any garbage solid waste or other material in any garbage can, garbage unit, detachable container or mobile toter or to remove the covers therefrom. The covers shall be securely placed on each can, toter or unit at all times, except when it is necessary to remove same for deposit or at times of collection.

J. Effective November 1, 1994, yard waste collected by collection companies shall be deposited in containers provided or approved by collection companies or by the director, and disposed of as provided for in this chapter or authorized by the director. Nothing in this chapter shall prohibit persons from composting yard waste on property owned or leased by such persons. Compost facilities shall be operated and maintained consistent with other applicable laws and regulations.

Sec. 7.03.060. Hours of collection. All garbage solid waste, recyclable materials and yard waste will be collected within the boundaries of the city as follows:

1. Residential pick-ups shall be made one (1) day per week, Monday through Friday from 7:00 a.m. to 4:00 p.m. unless otherwise approved by the director in writing. Solid waste pick-ups shall be made once per week, unless otherwise approved by the director. Recycling materials and yard waste may be picked up less frequently as approved by the director. Residential collection shall be at curbside unless otherwise agreed upon.

2. Commercial pick-ups may begin at 4:00 a.m., Monday through Friday and may be made as often as required, but no less than once per month; provided, however, that in commercial areas abutting residential neighborhoods, pick-ups shall be limited to days and times set forth in subsection (1) above.

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Sec. 7.03.070. Special regulations. The city reserves the right to prescribe special regulations for the collection of garbage and solid waste from the construction or repair of buildings, waste products from manufacturing plants, refuse of peculiar quality or garbage solid waste which may be thoroughly offensive or dangerous to haul through the streets or alleys of the city. The requirements for solid waste, recyclable materials, and yard waste collections, as set forth in the provisions of this chapter, may be modified by contract with the collection companies when approved by the city council and the affected collection company.

Sec. 7.03.080. Location of containers.
A. The location of detachable containers, garbage cans or units, or mobile cartstethers of commercial, industrial or multifamily dwellings shall be subject to inspection by the fire department and must be relocated in areas with a reduced or a nonexistent fire hazard as necessary.
B. The location of the mobile cartstethers in conjunction with the residential pick-ups shall be at curbside. Persons with physical constraints, unable to bring their refuse or garbage solid waste and recyclable materials to the curbside for collection, may be granted an exemption from doing so by the collection company.

Sec. 7.03.085. Recycling space requirements.
A. Storage space and collection points for recyclables. Developments shall provide storage space for the collection of recyclables as follows:
   1. The storage space for residential uses shall be provided at the rate of one and one-half (1 1/2) square feet per dwelling unit in apartment and condominium developments except when the development is subject to a city/county sponsored or approved direct collection program.
   2. The storage space for nonresidential uses shall be provided at the following rate:
a. Two (2) square feet per every one thousand (1,000) square feet of building gross floor area in office educational and institutional developments;

b. Three (3) square feet per every one thousand (1,000) square feet of building gross floor area in manufacturing and other nonresidential developments;

c. Five (5) square feet per every one thousand (1,000) square feet of building gross floor area in retail developments.

B. Collection points for recyclables. Developments shall provide collection points for recyclables as follows:

1. The storage space for residential developments shall be apportioned and located in collection points as follows:

   a. The required storage area shall be dispersed in collection points throughout the site when a residential development comprises more than one (1) building.

   b. There shall be one (1) collection point for every thirty (30) dwelling units.

   c. No dwelling unit within the development shall be more than two hundred (200) feet from a collection point.

   d. Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic on site, or project into any public right-of-way.

2. The storage space for nonresidential development shall be apportioned and located in collection points as follows:

   a. Storage space may be allocated to a centralized collection point.

   b. Outdoor collection points shall not be located in any required setback areas.

   c. Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic onsite, or project into any public right-of-way.
d. Outdoor collection points serving more than one (1) building within any single development are subject to the prior approval of the city’s director of public works.

C. Collection point design. The collection points shall be designed as follows:

1. Dimensions of the collection points shall be of sufficient width and depth to enclose containers for recyclables.

2. Architectural design of any structure enclosing an outdoor collection point or any building primarily used to contain a collection point shall be consistent with the design of the primary structure(s) on the site.

3. Collection points shall be identified by signs not to exceed two (2) square feet.

4. A six (6) foot wall or fence shall enclose any outdoor collection point, excluding collection points located in industrial developments that are greater than one hundred (100) feet from residentially zoned property.

5. Access to collection points may be limited, except during regular business hours and/or specified collection hours.

6. Enclosures for outdoor collection points and buildings used primarily to contain a collection point shall have gate openings at least twelve (12) feet wide for haulers. In addition, the gate opening for any building or other roofed structure used primarily as a collection point shall have a vertical clearance of at least twelve (12) feet.

7. Weather protection of recyclables shall be ensured by using weatherproof containers or by providing a roof over the storage area.

8. Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic onsite, or project into any public right-of-way.

Sec. 7.03.090. King County system designated.

A. All solid waste generated within the corporate limits of the city shall be disposed at a King County solid waste disposal facility.
B. King County is authorized to designate disposal sites for the disposal of all solid waste generated within the city.

C. No solid waste may be diverted from the disposal sites designated by King County without King County approval.

D. The provisions of this section shall not apply and shall not affect the disposal of solid waste which is eliminated through waste reduction or waste recycling activities which have been coordinated with King County pursuant to the agreement between King County and the city concerning use of King County solid waste disposal facilities.

E. King County regulations or ordinances regarding levels and types of service for any aspect of solid waste handling shall not apply within the limits of the city except as provided in this chapter.

Sec. 7.03.100. King County comprehensive solid waste management plan adopted.

A. The city hereby adopts the King County comprehensive solid waste management plan with addenda as recommended by the solid waste interlocal forum through resolution 89005 (hereinafter “plan”). The plan as adopted in this section is further designated for the exercise of substantive authority under the State Environmental Policy Act rules pursuant to RCW 43.21C.060.

B. Pursuant to RCW 70.95.160, the city hereby determines that King County shall not exercise any powers regarding the levels and types of service for any aspect of solid waste handling in the city. King County regulations and ordinances regarding levels and types of service for any aspect of solid waste handling shall not apply within the corporate limits of the city as may be now or hereafter determined by the city.

C. Pursuant to RCW 70.95.030, the city hereby designates the following materials as recyclable materials:

1. Container glass;
2. Paper;
3. Aluminum;
4. Tin cans;
5. Plastic.

Other materials may be designated as recyclable as markets become available and as the net cost of collecting and recycling that material becomes equal to or less than the cost of collection, transfer, long haul and disposal. Items in the above list may be removed due to market or other variation.

D. The city shall determine solid waste and recycling collection rates, if any, by ordinance and not as set forth in the plan.

E. The director of public works is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this section.

Sec. 7.03.110. Lien for utility services.

A. Pursuant to Chapter 35.21 RCW, liens are authorized by this code against property for which solid waste, recyclable materials, or yard waste collection services have been provided by collection companies operating under contract with the solid waste utility.

B. Charges for solid waste collection and disposal, recyclable collection and disposal, and yard waste collection and disposal services are set by collection companies consistent with solid waste utility contracts with the city. Upon failure to pay the charges within the time provided for in invoices and/or bills issued by collection companies, the amount thereof shall become a lien against the property for which the solid waste, recyclable material, or yard waste collection service is rendered.

C. A notice of the lien authorized by this section shall specify the charges, the period covered by the charges, and the legal description of the property sought to be charged. The notice shall be filed with the county auditor within the time required and shall be foreclosed in the manner and within the time prescribed for liens for labor and material.

D. Liens authorized by this section shall be prior to all liens and encumbrances filed subsequent to the filing of the notice of lien with the county auditor, except the

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lien of general taxes and local improvement assessments whether levied prior or subsequent thereto.

E. Collection companies seeking to exercise rights under this section shall have current, executed contracts for solid waste handling with the city authorizing the rights herein and providing for the method of such lien enforcement.

Sec. 7.03.120. Notice of violation.

A. If the director determines after investigation that this chapter has been violated, the director may have a notice of violation served upon the owner, tenant or other person believed to be responsible for the condition. The notice shall be served by personal service or by United States mail addressed to the last known address of the owner, tenant or other person responsible for the condition. The notice shall state separately each violation of this chapter and what corrective action is necessary to comply with the chapter. A reasonable time for compliance shall be established in the notice.

B. The notice of violation shall not be amended by the director to include additional violations as a result of any reinspection for compliance or other purposes except upon a clear showing that the amendment is necessary for the protection of public safety, health and general welfare and that the additional violation did not exist or could not reasonably have been discovered at the time of original inspection.

Sec. 7.03.130. Time to comply. When calculating a reasonable time for compliance, the director shall take into consideration:

1. The type and degree of violation cited in the notice;

2. The intent of a responsible party to comply if an intent has been expressed.

Sec. 7.03.140. Extension of compliance date. An extension of time for compliance with a notice of violation may be granted in writing by the director upon receipt of a written request therefor. The director may without a written request grant
an extension of time after finding that required actions have been started and that the work is progressing at a satisfactory rate.

See. 7.03.150. Civil penalty.

A. In addition to any other sanction or remedial procedure which may be available, any person failing to comply with a notice of violation of this chapter shall be subject to cumulative penalty in the amount of fifty dollars ($50) per day for each violation from the date set for compliance until the notice of violation is complied with. Persons failing to comply with a notice of violation in connection with a venture entered into for profit shall be subject to a cumulative penalty in the amount of one hundred dollars ($100) per day. The penalty for failure to comply with a notice of violation where the city has removed the solid waste shall be increased to include the actual cost of such removal plus fifteen (15) percent.

B. The penalty imposed by this section shall be collected by civil action brought in the name of the city. The director shall notify the city attorney in writing of the name of any person subject to the penalty and the amount of the penalty and the city attorney shall, with the assistance of the director, take appropriate action to collect the penalty.

C. Whenever solid waste deposited, thrown or placed in violation of this chapter contains three (3) or more items bearing the name of one (1) individual or whenever a motor vehicle or trailer used in the activity is identified by its license plate, it shall be presumed that the individual whose name appears on the items or to whom the vehicle or trailer is registered committed the unlawful act. The defendant shall have an opportunity to rebut the presumption and may show as full or partial mitigation of liability:

1. That the violation giving rise to the action was caused by the wilful act, neglect, or abuse of another; or

2. That correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by inability to obtain necessary labor, inability to gain access to the subject property or other conditions or circumstances beyond the control of the defendant.
Sec. 7.03.170. Summary abatement.

A. The city council may, after a report has been filed by the director and the property owner, tenant or other person responsible for the condition has had an opportunity to be heard, by ordinance require such person to abate a nuisance by removal and proper disposal or refuse from the property at such person's cost and expense within a time specified in the ordinance. If the removal and disposal is not accomplished within the time specified, the director may abate the nuisance and recover in a civil action the cost and expense thereof plus fifteen (15) percent.

B. The director may also seek relief in superior court to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of this chapter when the civil or criminal remedies provided herein are inadequate to effect compliance.

Sec. 7.03.170120. Violation, penalty.

A. Any violation of any provision of this chapter is a civil violation as provided for in Ch. 1.04 KCC, for which a monetary penalty may be assessed and abatement may be required as provided therein.

B. In addition to or as an alternative to any penalty provided in this chapter, anyone violating or failing to comply with KCC 7.03.020 through 7.03.050 shall, upon conviction, be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment for a period of not exceeding one (1) year, or by both such fine and imprisonment.

B. Alternatively, anyone failing to comply with any provision of this chapter shall be subject to a civil penalty in the amount of fifty dollars ($50) per day for each violation pursuant to KCC 7.03.140 through 7.03.170.

SECTION 2. – Severability. If any one or more section, subsections, or sentences of this Ordinance are held to be unconstitutional or invalid, such decision
shall not affect the validity of the remaining portion of this ordinance and the same
shall remain in full force and effect.

**SECTION 3.** *Effective Date.* This ordinance shall take effect and be
in force thirty (30) days from and after passage as provided by law.

\[Signature\]

JIM WHITE, MAYOR

ATTEST:

\[Signature\]

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

\[Signature\]

ROGER LUBOVICH, CITY ATTORNEY


I hereby certify that this is a true copy of Ordinance No. 3541
passed by the City Council of the City of Kent, Washington, and approved by the
Mayor of the City of Kent as hereon indicated.

\[Signature\]

BRENDA JACOBER (SEAL)

BRENDA JACOBER, CITY CLERK